IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1089 OF 2007
IN
CRIMINAL APPEAL NO.887 OF 2007

Naushad Alam Abbasi s/o Abdul Jabbar Abbasi. ..Applicant.
Versus
The State of Maharashtra. ..Respondent.

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Mr.Ganesh Gole, Adv. i/b. Mr.Waris Pathan, Adv. for the Applicant.
Mr.A.R.Patil, APP, for the State.
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CORAM : S.B.MHASE AND
SMT.V.K.TAHILRAMANI,JJ.

DATED : DECEMBER 17, 2007.

P.C.:-

1. Heard both sides.

2. This is a bail application by the convicted accused in Sessions Case No.155 of 2006 from the file of the Sessions Judge, Greater Bombay at Sewree. By judgment and order dated 29th August, 2007, the applicant-accused has been convicted under Section 364-A read with 34 of IPC and sentenced to undergo RI for life and to pay fine of Rs.10000/- in default to

suffer RI for three years.

3. The present applicant-accused was charged for the offence under Section 364-A of IPC for kidnapping Mohd.Adil, aged 5 years with an intention to cause the said Mohd. Adil to be secretly and wrongfully confined and threaten to cause death and/or to make a demand of ransom of Rs.2,50,000/-. The applicant-Naushad and accused Nasrul were the accused. However, Nasrul is absconding and the trial has been separated. In a separated trial as against the applicant, the applicant has been convicted as stated above.

4. We have perused the statement of the victim and we *prima facie* find that the victim is not clear in respect of the identity of the accused and he is confused between Nasrul and Naushad. It is *prima facie* seen that the boy was tutored and to that effect the applicant-accused was shown to the boy by his father. Therefore, *prima facie* the evidence on record is rather shaky which persuades us to grant bail to the applicant-accused. Apart from this we find that during the trial the applicant was on bail

and he has not mis-utilised the liberty. Therefore, we find that during pendency of the Appeal also it will be proper and appropriate to grant bail to the applicant-accused. Hence the order :-

ORDER

(1) Applicant be released on bail of Rs.10,000/- (Rs.Ten Thousand Only) with like solvent surety. However, subject to payment of fine amount as condition precedent.

(2) Application is disposed of accordingly.

[SMT.V.K.TAHILRAMANI,J.] **[S.B.MHASE,J.]**